UNITED STATES DISTRICT COURT DISTRICT OF SOUTH CAROLINA

Tressa R. Glover, aka Tressa R. Glover Parker,) C/A No. 3:08-2254-JFA-BM)
VS.	Plaintiff,)) Report and Recommendation)
University Motor Company,)
	Defendant.))

This matter is before the Court because of Plaintiff's failure to comply with the undersigned's Order of June 23, 2008 (Entry 6), and because of Plaintiff's failure to prosecute the case in a timely manner. This case was filed by Plaintiff on June 18, 2008. Following the mandated initial review of the pro se pleading, the initial Order was entered and Plaintiff was directed to pay the filing fee or submit appropriate documents seeking leave to proceed *in forma pauperis*. Plaintiff was also directed to submit fully completed service forms for Defendant. Plaintiff failed to provide the Court with any response whatsoever to Entry 6, and the time permitted for compliance with the Order has now passed.

Applying the four-factor test of *Davis v. Williams*, 588 F.2d 69, 70 (4th Cir. 1978), to the circumstances of this case, it is clear that the failure of Plaintiff to take any action in this case for over two months, coupled with the failure respond to the initial Order in this case indicates an intent on Plaintiff's part not to prosecute this case.

Accordingly, it is recommended that this case be dismissed without prejudice due to Plaintiff's failure to comply with this Court's Order and failure to prosecute the case. See Fed. R. Civ. P. 41(b)(district courts may dismiss an action if a plaintiff fails to comply with "any order of the court."); see also Ballard v. Carlson, 882 F.2d 93, 95 (4th Cir. 1989)(dismissal with prejudice appropriate where warning given); Chandler Leasing Corp. v. Lopez, 669 F.2d 919, 920 (4th Cir. 1982)(court may dismiss sua sponte).



Plaintiff's attention is directed to the important notice on the following page.

Respectfully Submitted,

Bristow Marchant

United States Magistrate Judge

August 13, 2008 Columbia, South Carolina



Notice of Right to File Objections to Report and Recommendation

The parties are advised that they may file specific written objections to this Report and Recommendation with the District Court Judge. Objections must specifically identify the portions of the Report and Recommendation to which objections are made and the basis for such objections. In the absence of a timely filed objection, a district court judge need not conduct a de novo review, but instead must "only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310 (4th Cir. 2005).

Specific written objections must be filed within ten (10) days of the date of service of this Report and Recommendation. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). The time calculation of this ten-day period excludes weekends and holidays and provides for an additional three (3) days for filing by mail. Fed. R. Civ. P. 6(a) & (e). Filing by mail pursuant to Fed. R. Civ. P. 5 may be accomplished by mailing objections to:

Larry W. Propes, Clerk United States District Court 901 Richland Street Columbia, South Carolina 29201

Failure to timely file specific written objections to this Report and Recommendation will result in waiver of the right to appeal from a judgment of the District Court based upon such Recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985).

